

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JUAN HERNANDEZ DOMINGUEZ,

Movant,

v.

CIVIL ACTION NO. 5:05-cv-00465
(Criminal No. 5:01-cr-00027)

UNITED STATES OF AMERICA,

Respondent.

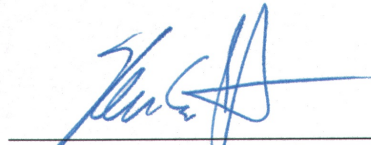
JUDGMENT ORDER

By Standing Order entered on July 21, 2004, and filed in this case on June 7, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation [“PF&R”]. Magistrate Judge VanDervort filed his PF&R on July 22, 2008 [Docket 95]. In that filing, the magistrate judge recommended that this Court deny Movant’s Motion to Relieve him From a Final Judgment Under Federal Rule of Civil Procedure 60(b)(4) Due to the District Court’s Lack of Jurisdiction to Impose an Enhanced Sentence and a Memorandum in Support [Docket 76] and remove this matter from the Court’s docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Here, objections to Magistrate Judge VanDervort’s PF&R were due by August 8, 2008, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). Movant has failed to object to the PF&R.

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge VanDervort, the Court adopts the recommendations contained therein. Accordingly, the Court hereby **DENIES** Movant's Motion to Relieve him From a Final Judgment Under Federal Rule of Civil Procedure 60(b)(4) Due to the District Court's Lack of Jurisdiction to Impose an Enhanced Sentence and a Memorandum in Support [Docket 76] . This case is **DISMISSED** and the Clerk is directed to **REMOVE** it from the Court's docket. The Clerk is further directed to mail a certified copy of this Judgment Order to all counsel of record, Movant, *pro se*, and a copy to Magistrate Judge VanDervort.

ENTER: August 12, 2008



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE